

TOWN OF TIVERTON
ZONING BOARD OF REVIEW MINUTES

JULY 7, 2010

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, July 7, 2010 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, Jay Jackson, Lise Gescheidt, Richard Taylor, Susan Krumholz and Mathew Cayer, first alternate and Wendy Taylor Humphrey, second alternate.

Also present were: Peter Ruggiero ,Town Solicitor, Gareth Eames, Building Official and Sally Ferreira, Court Reporter.

1. A petition has been filed by David P. Martland of Silva, Thomas, Martland & Offenberg, LTD of Middletown, RI appealing the decision of the Building/Zoning Official to issue a letter dated February 10, 2010 regarding a Special Use/Variance petition dated December 8, 2009 in order to construct a 343 foot wind turbine tower at Fish Road, Tiverton, RI being Maps 1-12 & 2-11 Block 92 Card 17 on the Tiverton Tax Assessor's maps in a R40 zoning district.

**** The Chairman stated the Board received a formal notice in the form of a letter from the office of Millenium Renewable Energy, LLC, requesting withdrawal of this petition for a variance and appeal without prejudice at this point in time. The Chairman went on to say the petitioner does not intend at this time to continue with their petitions, although, they could continue in the future if they reapply and of course they will have to re-advertise.

The Chairman entertained a motion to withdraw the Millennium Renewable Energy variance and appeal petition without prejudice. Ms. Krumholz so moved. Ms. Gescheidt seconded. The vote was four to one with Mr. Taylor voting against. Voting in favor were: Chairman David Collins, Jay Jackson, Susan Krumholz and Lise Gescheidt. The motion carried.

2. A petition has been filed by Millenium Renewable Energy, LLC by their Attorneys, Silva, Thomas, Martland & Offenberg, LTD of Middletown, RI requesting a special use permit to Article IV Section 5.d. of the Tiverton Zoning Ordinance in order to construct a 343 foot wind turbine tower at Fish Road, Tiverton, RI being Maps 1-12 & 2-11 Block 92 Card 17 on the Tiverton Tax Assessor's maps whereby a special use permit is required in a R40 zoning district.

A petition has been filed by Millenium Renewable Energy, LLC by their Attorneys, Silva, Thomas, Martland & Offenberg, LTD of Middletown, RI requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to construct a 343 foot wind turbine tower at Fish Road, Tiverton, RI being Maps 1-12 & 2-11 Block 92

Card 17 on the Tiverton Tax Assessor's maps exceeding maximum height which is currently allowed in a R40 zoning district.

***** The Chairman stated the Board received a formal notice in the form of a letter from the office of Millenium Renewable Energy, LLC, requesting withdrawal of this petition for a variance and appeal without prejudice at this point in time. The Chairman went on to say the petitioner does not intend at this time to continue with their petitions, although, they could continue in the future if they reapply and of course they will have to re-advertise.

The Chairman entertained a motion to withdraw the Millennium Renewable Energy variance and appeal petition without prejudice. Ms. Krumholz so moved. Ms. Gescheidt seconded. The vote was four to one with Mr. Taylor voting against. Voting in favor were: Chairman David Collins, Jay Jackson, Susan Krumholz and Lise Gescheidt. The motion carried.

3. A petition has been filed by Jeremiah R. Leary of 1340 Main Road, Tiverton, RI requesting a variance from Article V, Sections 1 and 2.b, Article XIV Section 5, Article VIII Sections 3, 3(d) and 3(d)(3) in order to raze an existing single family dwelling and shed, relocate another single family dwelling to where the razed dwelling was and to construct a new single family dwelling where the dwelling that was re-located was, all located at 44, 56, 65 & 67 Borden Lane, Tiverton, RI being Map 4-11 Block 113 Cards 28A & 28B with more than one principal use and structure on the lot, closer to the rear and side yard setbacks, extending, enlarging or moving a non-conforming use and exceeding allowed density, within 200 feet of Stafford Pond and exceeding 10% coverage allowed in a R60 zoning district within the watershed protection district.

A petition has been filed by Jeremiah R. Leary of 1340 Main Road, Tiverton, RI requesting a special use permit to Article VI Section 7, Article VIII Sections 3, 3(d) and 3(d)(3) in order to raze an existing single family dwelling and shed, relocate another single family dwelling to where the razed dwelling was, to construct a new single family dwelling where the home that was re-located was and to install an onsite wastewater treatment system located at 44, 56, 65 & 67 Borden Lane, Tiverton, RI being Map 4-11 Block 113 Cards 28A & 28B within 200 feet of Stafford Pond, exceeding allowed density, with uses not specifically permitted or prohibited and exceeding 10% coverage allowed in a R60 zoning district within the watershed protection district which require a special use permit.

DECISION: Attorney Jeremiah Leary representing the petitioner addressed the Board and stated he went before the Planning Board who requested a review by the Town's engineers, Commonwealth Engineers. Mr. Leary went on to say he is on the Planning Board's agenda for the August 3rd meeting so he would request a continuance to the Zoning Board of Review's agenda to August 4th.

Mr. Taylor asked Mr. Leary if he had any additional documentation to be submitted and Mr. Leary stated he may. Mr. Leary further stated he asked the Stone Bridge Fire District to review the plans and their meeting is July 12th so that decision may be coming to this

Board. Mr. Leary stated he will make sure each member gets any additional documentation well in advance.

The Chairman entertained a motion. Ms. Gescheidt made a motion to continue. Mr. Taylor seconded. The vote was unanimous. Voting were: Chairman David Collins, Jay Jackson, Susan Krumholz, Richard Taylor and Lise Gescheidt.

4. A petition has been filed by Jeffrey Bernard of Westport, MA requesting a variance from Article V Section 1 of the Tiverton Zoning Ordinance in order to allow an existing foundation to remain at 79 Raider's Way, Tiverton, RI being Map 2-8 Block 92 Card 81-25 on Tiverton Tax Assessor's closer to the front yard setback than is currently allowed in a R40 zoning district.

DECISION: Jeffrey Bernard was sworn in and stated he is seeking relief of his front yard setback for the easterly corner of his garage of 20 inches due to overhang issues with the roof. Mr. Bernard went on to explain that the foundation already exists and it was improperly installed because he measured from the wrong distance. The Chairman asked Mr. Bernard would he have to move the foundation back if the Board did not allow this variance and Mr. Bernard answered he would have to change the look of the garage and cut that corner off and set the garage back a foot. Ms. Gescheidt asked Mr. Bernard if he is building this structure himself and Mr. Bernard stated he has a builder but he was out of town at the time the foundation was poured. Mr. Bernard went on to say he thought he could measure a certain distance off the road and unfortunately he measured from the wrong corner.

The Board went into executive session to discuss this matter. Mr. Taylor made a motion to grant the requested relief of 20 inches as the least relief from the front yard setback. Ms. Gescheidt seconded. The vote was unanimous. Voting were: Chairman David Collins, Jay Jackson, Susan Krumholz, Richard Taylor and Lise Gescheidt.

ADMINISTRATIVE ISSUES:

There was lengthy discussion among the Board on the subject of a registered surveyor versus an engineer. Mr. Taylor stated registered surveyors are about meets and bounds which is what this Board does and a registered engineer cannot certify boundary lines and property lines. Mr. Taylor also stated this Board cannot rule on ISDS plans and the Board should have a registered surveyor because many of the petitions are about meets and bounds. Mr. Taylor read a portion of the ordinance which states, "the site plan must be stamped and signed by a registered engineer or a registered land surveyor." There was further discussion and clarification by Mr. Ruggiero.

Mr. Ruggiero suggested that the rules of procedure be reviewed by all the members. Mr. Taylor volunteered to send everybody on the Board a copy of the rules for review so they may be discussed at the next meeting.

Mr. Taylor reminded the Board that it was election night and made a motion to elect Ms. Gescheidt for chairman, Mr. Collins for vice-chair and himself for secretary. Mr.

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Ruggiero suggested the Board discuss this matter and stated further nominations can be made. Mr. Jackson made a motion to elect Ms. Gescheidt as Chairman, Ms. Krumholz as vice-chair and Mr. Taylor as secretary. Mr. Taylor seconded. The vote was unanimous. Voting were: Chairman David Collins, Jay Jackson, Susan Krumholz, Richard Taylor, Lise Gescheidt, Matthew Cayer and Wendy Taylor-Humphrey.

Mr. Taylor made a motion to accept the June meeting minutes as submitted. Mr. Jackson seconded. The vote was unanimous. Voting were: Chairman David Collins, Jay Jackson, Susan Krumholz, Richard Taylor, Lise Gescheidt, Matthew Cayer and Wendy Taylor-Humphrey.

Mr. Jackson made a motion to adjourn. Mr. Taylor seconded. The vote was unanimous. Voting were: Chairman David Collins, Jay Jackson, Susan Krumholz, Richard Taylor, Lise Gescheidt, Matthew Cayer and Wendy Taylor-Humphrey.

(Whereupon the Zoning Board of Review meeting of July 7, 2010 was adjourned at 8:39 p.m.)

C E R T I F I C A T E

I, Salvina S. Ferreira, Registered Professional Reporter, hereby certify that the foregoing 05 pages of the Tiverton Zoning Board of Review minutes are transcribed to the best of my knowledge, skill and ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed my seal of office this 27th day of July, 2010.

Salvina S. Ferreira, RPR

My commission expires: September 26, 2013
ID # 28792

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